

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Mary Moore Cathcart and Ariana Inglese

Date application filed with the Town Clerk: October 3, 2006

Nature of request: A Special Permit to operate a home furnishings store under Section 9.22 of the Zoning Bylaw

Address: 321 Main Street (Map 14B, Parcel 28, R-G Zoning District)

Legal notice: Published on October 4 and 11, 2006 in the Daily Hampshire Gazette and sent to abutters on October 3, 2006.

Board members: Tom Simpson, Barbara Ford and Al Woodhull

Submissions: The petitioner submitted the following:

- A series of plans drawn by Integrity Builders showing the site plan, the parking available for the building, the proposed sign, photos of the building, and the first floor plan, dated October 20, 2006
- The Amherst GIS map of the property and surrounding area
- A hand-drawn plan of the upper area of the space under consideration, designated as "Office/Studio" space.
- The management plan for the proposed business
- The management plan for 321 Main Street, submitted by Kamins Real Estate and approved by the Board on July 25, 2005
- Another site plan which contains a zoning analysis of the property. All of the dimensional and parking requirements are met for the property.

Site Visit: October 17, 2006

One member of the Board met with the petitioners at the site. The other two members had visited the site earlier. The following was observed:

- The space proposed for the business, located in the eastern end of a small brick building which is at the edge of a residential district;
- The Emily Dickinson Museum located across Main Street, and a commercial district with a variety of businesses located directly to the east of the building;
- The two parts of the business space- a small first floor space that is proposed for the retail customer area, and a similar space behind that is proposed for storage and office space;
- A connecting stairway between the two spaces that is quite steep and not easily accessible to the public;
- A small parking area immediately in front of the building, and a large parking area at the western end of the building

Public Hearing: October 19, 2006

Mary Moore Cathcart and Ariana Inglese represented themselves at the hearing. They gave the following information:

- They wish to have a home furnishing store, with antiques, new furniture and house wares, ranging from linens to small cooking equipment;
- The front area of the rental space will be for retail sales; the back area will be for storage;
- The number of employees will be two, themselves;
- The initial proposal for hours of operation was – Monday – Saturday: 10 am – 6 pm, with extended hours on Thursday to 8 pm; Sunday hours were 10 am – 6 pm.
- After discussion, they asked to revise the hours of operation to 9 am to 8 pm, seven days per week;
- Deliveries will be made during business hours, but they would be willing to be flexible if this isn't acceptable. Deliveries could be made to their homes, and brought to the store by the applicants.
- The size of the deliveries would be about 2' x 2' boxes; they will not deal in large items;
- The largest item in the store will be 2 upholstered chairs, used as samples that customers can order; There will be no sofas or beds sold;
- The antiques will be small bowls and other small items;
- They have experience in retail work and residential furnishing business;
- The stairs connecting the front with the back space will be rebuilt to code;
- The sign will be painted wood, the same size as the existing sign (2' x 12'); The colors will be sage green background and black lettering;
- Two gooseneck lights, 75 watts, will be installed over the sign;
- They plan to have a tub or box of flowers outside the front window in good weather;
- There will be a light left on in the shop in the evening hours;
- The parking will be first-come, first served; there are 20 existing parking places on the lot and about 5 directly in front of the proposed business site.

Mr. Woodhull asked if the business will be more seasonal. The applicants said that most businesses are busiest in December, and they hope to be open by that time. Their business may be somewhat connected to the academic year, but it's not clear, they said.

There was discussion about the size of the sign and whether it should be smaller. Section 8.20 of the Zoning Bylaw states that the total area of a sign on a wall shall not exceed 10% of the area of that wall. However, many of the shops in the building do have signs that exceed that 10% level, the Building Commissioner stated. The applicants added that they only want one sign, the one in the front of the building facing Main Street. The previous tenant had a second sign of the same size around the corner, facing Dickinson Street, which they are not asking for.

Mr. Woodhull said that he liked the sign overall. The business name is short ("the clawfoot tub"), the lettering doesn't cover the entire sign, and it's simpler overall than the sign that is currently there. Eventually the Board agreed that the sign size is compatible with the other signs on the building and is permissible as designed.

Ms. Ford made a motion to close the evidentiary portion of the hearing. Mr. Woodhull seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board discussed the application, the parking needs of larger delivery trucks for all the shops in

the building and the conditions that would accompany the application if approved.

Findings:

The Board finds under Section 9.22 of the Zoning Bylaw, Non-conforming Uses and Structures, that the proposed use will be not be intrusive to the abutting residential neighborhood, and will not be more detrimental to the neighborhood than the existing or previous use of the building.

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the shop will be a low-impact one for adjacent residences, there are other businesses in the area, some with later hours than that proposed for the furniture store.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the hours of operation are limited, the outdoor lighting will be downcast, and no changes are proposed to the building except for the addition of a flower box or planter. The property is screened from the residential abutters to the west and south.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because there is ample parking and turning space on site, and there is a sidewalk in front of the property.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the proposed business is modest and the conditions of the permit stipulate that the proposal be implemented according to the floor and management plans.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because 20 parking places are provided on site (18 are required, Section 7.5 of the Zoning Bylaw) and the proposed sign is compatible in size with the other approved signs on the building.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the building is connected to Town Water/sewer lines, the building management plan provides for regular refuse/recycling pickup, and the petitioner's management plan deals with refuse/recycling as well.

10.391, 10.392 & 10.395 – The proposal protects unique or important natural, historic features of the area, since the proposed business will have no exterior changes other than a tasteful sign and flowers, and will not impinge on the Dickinson National Register District, of which this property is a part.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the exterior lighting is minimal and downcast.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because a small furniture/antique store will be a positive addition to the downtown business area and the surrounding residences. The proposal thus will promote the general welfare of the residents of this Town.

Public Meeting – Zoning Board Decision

Ms. Ford made a MOTION to APPROVE the petition, subject to conditions. Mr. Woodhull seconded the motion.

For all of the reasons stated above, the Board VOTED UNANIMOUSLY to approve a Special Permit for a home furnishings store under Section 9.22 of the Zoning Bylaw, on the premises at

321 Main Street, (Map 14B /Parcel 28, R-G Zoning District), with conditions, as requested in the application filed by Mary Moore Cathcart and Ariana Inglese.

TOM SIMPSON

BARBARA FORD

AL WOODHULL

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.
NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit for a home furnishings store under Section 9.22 of the Zoning Bylaw, on the premises at 321 Main Street, (Map 14B /Parcel 28, R-G Zoning District), as requested in the application filed by Mary Moore Cathcart and Ariana Inglese, subject to the following conditions:

1. The hours of operation for the business shall be 9 AM to 8 PM, daily.
2. The refuse/recycling shall be managed as described in the Management Plan approved for the building at a public meeting of the Board on July 25, 2005 and on file with this permit.
3. The sign above the entrance to the store shall be as shown on the plan submitted to the Board and approved at a public meeting of the Board on October 19, 2006. The sign shall be 2' x 12' with two downcast gooseneck lamps for illumination.
4. The 2' x 12' sign on the easterly side of the building shall be removed.
5. The business shall be managed as described in the applicant's revised Management Plan which was approved at public meeting of the Board on October 19, 2006.
6. Deliveries shall be made during normal business hours.
7. An area in the northwest corner of the parking lot, approximately where space #12 is shown on the approved site plan but large enough to accommodate tractor trailer delivery trucks, shall be designated with pavement marking and appropriate signs, for use by all the shops in the building.
8. The final floor plans for the business shall be submitted to the Board for review and approval at a public meeting prior to issuance of a Certificate of Occupancy.
9. Plantings or a flower box shall be added to the store front.
10. The number of employees shall be limited to three at any one time.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE